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Blue Ridge Regional Office
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STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
TOWN OF CHASE CITY
FOR
CHASE CITY WWTP
VPDES PERMIT No. VA0076881

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15 (8a) and (8d) between the State Water Control Board and the Town of Chase City, for the purpose of resolving certain violations of the State Water Control Law and the applicable Permit and Regulation.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
2. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Lynchburg, Virginia.

3. "Chase City" or "Town" means the Town of Chase City, a political subdivision of the Commonwealth of Virginia. The Town of Chase City is a "person" within the meaning of Va. Code § 62.1-44.3.
4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
5. "Director" means the Director of the Department of Environmental Quality.
6. "DMR" means Discharge Monitoring Report.
7. "Facility", "Plant", or "WWTP" means the Chase City WWTP located at 1328 High Street, Chase City, Virginia, which treats and discharges treated sewage and other municipal wastes, for the residents and businesses of the Town of Chase City.
8. "Notice of Violation" or "NOV" means a type of Notice of Violation under Va. Code § 62.1-44.15.
9. "O & M" means Operation and Maintenance.
10. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
11. "Permit" means VPDES Permit number VA0076881; which was issued under the State Water Control Law and the Regulation to the Town on June 18, 2008, and which expires on June 17, 2013.
12. "Regulation" means the VPDES Permit Regulation at 9 VAC 25-31-10 *et seq.*
13. "SEP" means Supplemental Environmental Project.
14. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
15. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
16. "TKN" means Total Kjeldahl Nitrogen.
17. "Va. Code" means the Code of Virginia (1950), as amended.

18. "VAC" means the Virginia Administrative Code.
19. "VPDES" means the Virginia Pollutant Discharge Elimination System.
20. "Warning Letter" or "WL" means a type of Notice of Violation under Va. Code § 62.1-44.15.

SECTION C: Findings of Fact and Conclusions of Law

1. The Town owns and operates the Facility in Chase City, Virginia. The Permit allows the Town to discharge treated sewage and other municipal wastes from the Facility to Little Bluestone Creek, in strict compliance with the terms and conditions of the Permit.
2. Little Bluestone Creek is located in the Roanoke River Basin, Roanoke River Subbasin. Little Bluestone Creek is listed in the 2008 Integrated Report (IR) and is classified as a 5A stream (the Water Quality Standard is not attained, and the stream is impaired for one or more designated uses by a pollutant(s) and requires the development of a TMDL). The impairment is listed as E. coli (bacterial) for recreational use, and the TMDL is scheduled for development in 2018. The source of the impairment is unknown. Little Bluestone Creek is designated as a Public Water Supply (PWS).
3. In submitting its DMRs, as required by the Permit, the Town has indicated that it has violated the effluent limitations, monitoring and reporting requirements of Parts I.A.1., I.C.9., and II. A. and II.C. of the subject Permit.
4. BRRO issued the following Notices of Violation for the Permit violations: NOV W2009-09-L-0009, NOV W2009-10-L-0002, NOV W2010-01-L-0001, NOV W2010-02-L-0004, NOV W2010-03-L-0007, NOV W2010-04-L-0006, NOV W2010-05-L-0009, NOV W2010-06-L-0009, NOV W2010-07-L-0005, WL W2010-09-L-1003, WL W2011-01-L-1006, WL W2011-02-L-1065, WL 2011-03-L-1012, and NOV W2011-04-L-0002.
5. The Town was late submitting its Ground Water Monitoring Report which was due on or before July 10, 2009. The Town attributed the delay to a

failure by the Town's contract laboratory to collect the ground water samples as required. Sampling was performed and the report was received by the Department on October 1, 2009.

6. The Town was cited for copper effluent limit violations on October 9, 2009; January 12, April 7, and September 9, 2010. The Town attributed the copper violations to the aggressive tendencies of the potable water supply, which consists of low pH/low hardness well water.
7. A conference call was conducted on May 11, 2010 between Department staff, the Town Manager, and the Town's environmental consultant to discuss the copper violations and future corrective action required to return the Town to compliance. The Town Manager described plans and funding secured by Mecklenburg County to extend a potable water line ten miles from the Town of Boydton in order to connect the Town with the Roanoke River Service Authority's water supply. The project is currently under construction and is anticipated to be completed by April 2011.
8. The Town was cited on January 12, February 18, June 28, and July 9, 2010 for submission of non-quantitative E. coli DMR data. For all laboratory analytical procedures which employ sample dilutions, the Department requires that the dilutions utilized must be able to demonstrate compliance with the Permit limits. Department staff notified the Town that future E. coli analysis performed by the Town's contract laboratory would require additional sample dilutions.
9. The Town was cited on March 12, 2010; February 11 (along with improper reporting), March 15, and April 7, 2011 for ammonia and TKN effluent limit violations. Additional TKN violations were cited on January 13, 2011. The Town attributed the 2010 ammonia violations to maintenance issues with respect to the blower supplying air to the aeration basin at the WWTP. The Town effected repairs to the faulty blower in May 2010 and the Facility returned to compliance. The Town attributed the 2011 ammonia and TKN violations to cold weather operational issues.

10. The non-quantitative reporting of E. coli data has been resolved with the Town's contract laboratory. The ammonia and TKN violations were caused by maintenance issues that have been resolved.
11. The Town's operating logs indicate that it discharged treated wastewater from the WWTP from July 1, 2009 through February 28, 2011.
12. Va. Code § 62.1-44.5 states that: "Except in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances."
13. The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES Permit, or another Permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
14. Va. Code § 62.1-44.15(5a) states that a VPDES Permit is a "certificate" under the statute.
15. The Department has issued no permits or certificates to the Town other than VPDES Permit No. VA0076881.
16. Little Bluestone Creek and the Roanoke River are surface waters located wholly within the Commonwealth and are "state waters" under State Water Control Law.
17. Based on the DMRs submitted for the Chase City WWTP and a records review conducted by the Department, the Board concludes that the Town of Chase City has violated VPDES Permit No. VA0076881, Va. Code § 62.1-44.5, and 9 VAC 25-31-50 by discharging treated sewage and municipal waste from the Facility while concurrently failing to comply with the conditions of the Permit, as summarized in paragraphs C.3., C.5., C.6., C.8, and C.9., above.
18. In order for the Town to return to compliance, Department staff and representatives of the Town have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 62.1-44.15, and upon consideration of Va. Code § 10.1-1186.2, the Board orders the Town of Chase City, and the Town agrees:

1. To perform the actions described in Appendices A and B of this Order; and
2. To a civil charge of \$3,710.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

The Town of Chase City shall include its Federal Employer Identification Number (FEIN) with the civil charge payment **and** shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of the Town of Chase City for good cause shown by the Town, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the STP; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, the Town of Chase City admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. The Town of Chase City consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. The Town of Chase City declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by the Town of Chase City to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. The Town of Chase City shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or other such occurrence. The Town shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The Town of Chase City shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred

that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

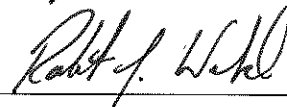
Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days of learning of any condition listed above, which the Town intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees, and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and the Town of Chase City. Nevertheless, the Town agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Town of Chase City petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - b. the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to the Town.

Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve the Town of Chase City from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by the Town of Chase City and approved by the Department pursuant to this Order are incorporated into this Order. Any noncompliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of the Town of Chase City certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind the Town to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of the Town.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms, or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, the Town of Chase City voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 4th day of August, 2011.



Robert J. Weld, Regional Director
Blue Ridge Regional Office
Department of Environmental Quality

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The Town of Chase City voluntarily agrees to the issuance of this Order.

Date: 3-24-11 By: Rickey G. Reese, Town Manager
Rickey G. Reese Town Manager
Town of Chase City

Commonwealth of Virginia

County of Mecklenburg

The foregoing document was signed and acknowledged before me this 24 day

of March, 2011, by Rickey G. Reese, who is Town

Manager of the Town of Chase City on behalf of the Town.

Virginia W. Peter
Notary Public

7037952

Registration No.

My commission expires: April 30, 2014.

Notary seal:



APPENDIX A

SCHEDULE OF COMPLIANCE

The Town of Chase City shall:

1. **Not later than September 30, 2011** complete all necessary permanent potable water supply line connections to the Roanoke River Service Authority (RRSA) to provide potable water for the Town. The Town's current groundwater wells shall be utilized only in the event of an emergency.
2. **Not later than March 31, 2012** complete and submit the results of Phase II of the Site-Specific Water Effect Ratio (SSWER) Study for copper, following the protocols previously approved by the Department, for review and comment. The Phase II portion of the project shall evaluate the change from groundwater to surface water supplied by the RRSA.
3. **Not later than 30 days** from notification of the Department's final approval of the SSWER Study, and contingent upon a copper WER result of greater than 1.0, submit a completed Permit amendment application to the Department for review and approval to request a modified copper effluent limit as indicated by the SSWER.
4. **Not later than 120 days** from notification by the Department of the disapproval of the SSWER Study due to the resulting copper WER being less than 1.0, and it being apparent that a Permit amendment is not justified by the SSWER Study and the Town cannot consistently meet the final copper limit, submit a Plan of Action (POA) to the Department describing further corrective action proposed by the Town to return to compliance.
5. **Not later than January^{10th} and July^{10th}** following the effective date of this Order, and during the period this Order is in effect, submit

semi-annual Progress Reports to the Department for the preceding six month period. The Progress Reports shall contain:

- a. A summary of all work completed since the previous Progress Report in accordance with the requirements of this Order.
 - b. A projection of the work to be completed during the upcoming period in accordance with the requirements of this Order; and
 - c. A statement regarding any anticipated problems in complying with the requirements of this Order.
6. **Not later than July 1, 2012**, achieve final compliance with the final total recoverable copper limits of the Permit.
7. Operate the Facility in a workmanlike manner that produces the best quality effluent of which it is capable in order to minimize potential impacts to water quality during the period of corrective action.
8. Submit all reports and correspondence required by this Order to:

G. Marvin Booth, III
Regional Enforcement Representative
Department of Environmental Quality
Blue Ridge Regional Office
7705 Timberlake Rd.
Lynchburg, VA 24502

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APPENDIX B
INTERIM EFFLUENT LIMITATIONS AND MONITORING
REQUIREMENTS

TOWN OF CHASE CITY
VPDES PERMIT No. VA0076881

From the effective date of this Order until completion of the corrective action requirements contained in Appendix A, but in no event later than **July 1, 2012**, the Town of Chase City shall monitor and limit the discharge from Outfall No. 001 of the Chase City WWTP in accordance with VPDES Permit Number VA0076881, except as specified below. These interim limits shall retroactively apply, if applicable, as of the first day of the month in which this Order becomes effective.

These requirements shall be construed in light of the Regulation.

Parameter Description	Parameter Limits					Monitoring Requirements	
	Quantity Average	Quantity Maximum	Concentration Minimum	Concentration Average	Concentration Maximum	Sample Frequency	Sample Type
Copper, Total Recoverable	N/A	N/A	N/A	N/A	35.2 µg/l	1/Month	8-HC

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